



MAGISTRATE JUDGE GERALDINE SOAT BROWN
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Chambers 1822

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STANDING ORDER REGARDING TRIAL PREPARATION FOR
CONSENT CASES BEFORE MAGISTRATE JUDGE BROWN

At an appropriate time, the Court will set dates for: (a) submission of the Pretrial Order; (b) a pretrial conference; and (c) trial. **Once a trial date has been set it will not be changed except for extraordinary, unforeseeable circumstances.** A trial date will not be changed because the parties are engaging in settlement negotiations.

I. DAUBERT MOTIONS. Any motions challenging an expert witness under Fed. R. Evid. 702 and Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993), must be filed and presented in court (with proper notice) no later than 54 days before trial, in order to provide sufficient time for briefing and evidentiary hearing, if necessary.

II. PRETRIAL ORDER. The parties shall jointly prepare the Pretrial Order. Trial Counsel for each party must appear in Court to submit the original and a courtesy copy on the day set by the Court for the filing. The Pretrial Order must be signed by counsel for all parties and contain the following:

1. The caption of the case and the title FINAL PRETRIAL ORDER. It shall recite: "This Order shall control the course of the trial and may not be amended except by consent of the parties or by order of the Court to prevent manifest injustice."

2. Jurisdiction. A statement of the basis alleged for the Court's jurisdiction, and if jurisdiction is disputed, the nature and basis of the dispute.

3. Case statement. A concise joint statement of the case, including the names of the parties and the attorneys who will be representing them at trial; the nature of the case; the claims, counterclaims and cross-claims, and the defenses raised to those claims. In a jury case, this statement will be read to the jury during *voir dire*.

4. Stipulations. A statement of any stipulations reached by the parties. See # 10 below. In a jury case, stipulations of fact will be read to the jury.

5. Witness lists. A separate list of witnesses for the plaintiff and the defendant providing the name and address of each witness, including experts, divided into three categories: (a) witnesses who **will** be called to testify; (b) witnesses who **may** be called to testify; and (c) witnesses whose testimony will be presented by deposition or other prior testimony (indicating whether the presentation will be by transcript or video). In a jury case, these names will be made available to the jury during *voir dire*.

All experts who will or may be called must be included on the witness list. A brief statement of the topic of each expert's testimony must be provided. Any objections to the calling of any witness and the reasons for the objection must be stated in the Pretrial Order.

6. Estimate of total trial time. A statement of whether the case will be a jury or bench trial, and a realistic estimate of the length of the trial. In a jury case, expected to last 5 days or less, 7 jurors will be selected. In a jury trial of more than 5 days, 8 jurors will be selected. *See* Fed. R. Civ. P. 48.

7. Damages and relief. An itemization of damages and any other relief sought.

8. Electronic equipment. Identify any video, computer or electronic equipment that will be used during the trial and whether there is any objection to the use of that equipment. It is the responsibility of the party seeking to use the equipment to procure it and to make arrangements for its set up and use.

9. Exhibit list. Each party shall prepare a list of its exhibits, in substantially the form attached. The list shall include any demonstrative exhibits or summaries. All exhibits shall be pre-numbered with identifying prefixes, for example, "JX" for joint exhibits; "PX" for plaintiff's exhibits; "DX" for defendant's exhibits. The list must include: (a) the exhibit number; (b) the date of the exhibit and a brief description; (c) whether there is an objection to the exhibit; (d) if so, the nature of the objection; (e) if there is an objection, the asserted basis for admissibility; and (f) a column for noting whether the exhibit was admitted. Relevance objections need not be listed; they are reserved for trial. Any other objection not listed is waived.

10. Motions in limine. A list of all motions in limine filed by each party. A motion in limine must be filed as a separate document from the Pretrial Order. Each motion in limine must be filed as a separate motion and each must cite authority supporting the relief sought. Many motions in limine can be avoided by stipulation by counsel. Therefore, each motion in limine must also contain a statement of efforts to reach an accord regarding that motion containing the recitations that L.R. 37.2 requires for discovery motions. Any motion in limine not containing such a statement is subject to being stricken. Any motion in limine must be filed on or before the date that the Pretrial Order is submitted. Any response to a motion in limine must be filed no later than 14 days after the submission of the Pretrial Order; no replies will be permitted.

11. Counsel's pretrial conference. State the date, time, and method (e.g., telephone, in person) that the conference among counsel required by this Order as described below was held.

12. Signature lines for counsel for all parties and the Court.

Plaintiff's counsel must prepare the first draft of the Pretrial Order and assemble the final draft; however, it is the responsibility of *all* counsel to cooperate in the drafting so that the Final Pretrial Order can be submitted on time.

Plaintiff's counsel shall provide to defendant's counsel an initial draft of the Pretrial Order, including the lists of plaintiff's witnesses and exhibits, no later than 21 days before the Pretrial Order is due. Defendant's counsel shall respond within 7 days thereafter, providing the defendant's information

including lists of the defendant's witnesses, exhibits, and motions in limine and any objections the defendant will raise to the plaintiff's witnesses or exhibits. Within 7 days thereafter, plaintiff's counsel shall list any objections that the plaintiff will raise to the defendant's witnesses or exhibits. **Counsel for all parties are required to confer in person or in a telephone conference and attempt to resolve any differences or objections.**

III. DEPOSITIONS TO BE USED AT TRIAL. A copy of any deposition transcript to be used at trial must be submitted to Chambers no later than 14 days prior to trial, noting which portions are not to be read and noting any objections in the margin of any disputed portion.

IV. PRETRIAL CONFERENCE. The Court will schedule a pretrial conference after the Final Pretrial Order has been submitted and shortly before the trial date. This is not a settlement conference. It is to simplify trial and avoid surprises. **Trial counsel fully prepared and with authority to discuss all aspects of the case must attend.**

In a bench trial, each party must prepare proposed findings of fact and conclusions of law.* It is not sufficient for the defendant merely state opposition to the plaintiff's proposed findings. The parties are directed to follow Form L.R. 16.1.1, footnote 11 in the Appendix to the Local Rules. These must be exchanged at least 7 days before the pretrial conference. Each party must submit a courtesy copy to Judge Brown's Courtroom Deputy at least 3 business days before the pretrial conference.

In a jury trial, each party must prepare any voir dire questions that it proposes in addition to the Court's standard voir dire questions. These must be exchanged at least 7 days before the pretrial conference. Each party must deliver a courtesy copy to Judge Brown's Courtroom Deputy at least 3 business days before the pretrial conference.

Jury instructions. Each party is to prepare one set of marked proposed jury instructions, verdict forms and special interrogatories, if any.* Each instruction shall be numbered, e.g., "Plaintiff's Proposed Instruction 5," "Joint Proposed Instruction 2," etc. Each proposed instruction must include citations to supporting authority. In order to facilitate agreement, the plaintiff's counsel shall provide a proposed set of instructions, etc. to the defendant's counsel at least 14 days prior to the pretrial conference, and the defendant's counsel shall respond to those proposed instructions within 7 days thereafter. At least 3 business days before the pretrial conference each party shall file its proposed set with the Clerk of the Court (and deliver a courtesy copy to Judge Brown's Courtroom Deputy), including any agreed instructions, verdicts or interrogatories; and any objections to any other parties' proposed instructions, verdicts or interrogatories. All objections shall be in writing and include citations to authority. Failure to object may constitute waiver of any objection.

Trial briefs are not necessary unless specifically ordered by the Court.

V. TRIAL. Each party must have sufficient copies of its exhibits, premarked, for the Court, opposing counsel, the witness and the jurors in a jury trial. The copies for the Court and the jurors must be assembled in tabbed, three-ring binders. Counsel for each party shall retain the original of its exhibits, subject to Local Rule 79.1. Counsel shall have witnesses available so that there is not unnecessary delay in the presentation of evidence.

* Along with the courtesy copy of the proposed findings of fact and conclusions of law or jury instructions, counsel is to deliver to Judge Brown's Courtroom Deputy a copy of those documents on a computer disk prepared in WordPerfect 8 or higher. The disk must have a label that contains the caption of the case and the name of the document included, e.g., "Defendant's proposed jury instructions." Counsel should notify the Court if this poses a substantial hardship.

VI. TRIAL COUNTDOWN SCHEDULE.

54 days before trial:

All *Daubert* motions must be filed and presented.

49 days before trial:

Plaintiff's attorney provides defendant's attorney with pretrial order draft.

42 days before trial:

Defendant responds to plaintiff's draft and provides defendant's information.

35 days before trial:

Plaintiff provides its objections to defendant's information.

Following week:

Conference among counsel about objections and issues.

28 days before trial:

Pretrial order submitted in court and all motions in limine filed.

14 days before trial (14 days after pretrial order submitted):

Responses to motions in limine must be filed.

Transcripts of any depositions to be used at trial must be delivered to Chambers, noting any objections to proposed portions.

Parties to exchange voir dire and jury instructions (jury trial) or findings of fact and conclusions of law (bench trial).

10 days before trial (3 days before pretrial conference):

Parties deliver to Court voir dire and jury instructions (jury trial) or findings of fact and conclusions of law (bench trial).

7 days before trial:

Pretrial Conference.

Trial date

ENTER:

GERALDINE SOAT BROWN
United States Magistrate Judge

CAPTION
PLAINTIFF'S/DEFENDANT'S EXHIBITS

Number	Description	Obj?	Objection	Admissibility	Admtd?